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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/509,326	03/24/2000	Min Ho Cha	5387-3	1618
20575	7590	11/02/2005	EXAMINER	
MARGER JOHNSON & MCCOLLOM, P.C. 210 SW MORRISON STREET, SUITE 400 PORTLAND, OR 97204			DASS, HARISH T	
			ART UNIT	PAPER NUMBER
			3628	

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/509,326

Applicant(s)

CHA, MIN HO

Examiner

Harish T. Dass

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-37 is/are rejected.
- 7) ☒ Claim(s) 29-30 and 34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1 – 24 are cancelled.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 25-26, 28, 30-32, 35-37 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Minton (US 6,014,643) in view of Kalmus et al (hereinafter Kalmus; US 4,674,044).

Re. Claim 25, Minton discloses a data processing method and system which allows individuals to buy and sell securities directly from other individuals interactively or automatically through electronic network or internet [see entire document particularly, Abstract; Figures; C1 L4 to C3 L20; C4 L12-L30; C7 L46-L60; C8 L8-L59; C14 L65 to C15 L37], (a) the user selecting a trade-desired object and inputting an initial trade condition for selling or purchasing the selected object in the computer system, the initial trade condition including a price for selling or purchasing and a trade-desired quantity [Figure 6-11; C2 L60 to C3 L16; C9 L18-L35; C13 L46-L67], (b) the user inputting an automatic trade condition containing purchase and selling conditions (limit price) in the computer system, the automatic trade condition comprising conditions for deciding a selling price, a selling quantity, a purchase price and a purchase quantity for

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subsequent orders [Figure 6-11; C2 L60 to C3 L16; C9 L18-L35; C12 L54-L60; C13 L46-L67], (c) the user placing an initial trade order according to the initial trade condition in the computer system through the data communication network [Figure 3; C7 L9 to C8 L7], (d) the computer system, without an intervention by the user, generating and placing a purchase order and a selling order for trade according to the automatic trade condition immediately after the initial trade order has been contracted (it is known that the orders are executed after the orders are entered and immediately after accepted by second trader) [Figure 12; C3 L1-L16; C8 L8-L21; C14 L46 to C15 L25]. Minton does not explicitly disclose (e) immediately after one of the selling order and the purchase order is contracted, the computer system, without an intervention by the user, generating and placing another purchase order and another selling order for trade according to the automatic trade condition, (f) the computer system repeating the process e), wherein the selling order in each of the processes (d) and (e) is higher than the contracted price in each of the processes (d) and (e), and the purchase order price in each of the processes (d) and (e) is lower than the contracted price in each of the processes (d) and (e). However, Kalmus discloses these steps [Abs; Figures 2-5; C1 L5 to C2 L9; C4 L22-L50; C5 L60 to C8 L20] to provide an automated market making system for one or more securities. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine disclosures of Minton and Kalmus to provide an improved data processing based system for implementing an automated trading market for one or more securities.

Re. Claim 26, Minton further discloses wherein the trade-desired object is stocks, futures, or options [C1 L15-L19; C2 L60-L64].

Re. Claims 28 and 30, Minton further discloses wherein inputting the automatic ordering condition further comprises drawing up an automatic trade table, where an automatic trade order is generated from the automatic trade table [Figure 4-#425 & #432, Figure 5 # 512; C9 L58-L62; C10 L15-L27].

Re. Claim 31, Minton discloses limit order and auto-activation [C9 L12 to C10 L2].

Neither Minton nor Kalmus explicitly disclose a target profit rate, and calculating a profit rate from the completed contracts before repeating the process (e); comparing the calculated profit with the target profit rate; and the computer system stopping the automatic trading if the target profit is obtained [Figure 12; C9 L31 to C10 L2; C11 L1-L10; C11 L61 to C12 L4;]. However, limit order inherits this feature and calculating the rate is known simply the percent of profit. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include calculating the profit with target profit rate to evaluate if he/she made more or less profit than his/her goal.

Re. Claim 32, claim 32 substantially is same as claim 25 and it is rejected with same rationale as claim 25.

Re. Claim 35, this claim is rejected with same rational as claims 28 and 30.

Re. Claim 36, claim 36 is rejected with same rational as claim 31.

Re. Claim 37, Minton discloses a user interface at the user computer system for the user to input an automatic trade condition [Figures 1-2; C4 L37 to C7 L8], a memory device for storing basic information data including an item code of a stock and an account number of a stock holder input to the computer system through the user interface [Figures 1-2; C4 L12 to C7 L8], a trade condition control module for storing an automatic stock trade condition based on which a selling order including price and quantity and a purchase order including price and quantity for trade of the stock are determined [Figure 6-11; C2 L60 to C3 L16; C9 L18-L35; C12 L54-L60; C13 L46-L67]. Minton does not explicitly disclose a trade order control module for determining whether the automatic stock trade condition has been met and for placing a stock trade order according to the automatic stock trade condition at a new price through the data communication network if the condition is met, wherein through the data communication network, the trade order control module places repeatedly, without an intervention by the user, a new stock selling and a new purchase order according to the automatic trade condition immediately after the stock selling or purchase order is contracted at a contracted price, the new selling order price is higher than the contracted price, and the new purchase order price is lower than the contracted price. However, Kalmus discloses these steps [Abs; Figures 2-5; C1 L5 to C2 L9; C4 L22-L50; C5 L60 to C8

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L20] to provide an automated market making system for one or more securities. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine disclosures of Minton and Kalmus to provide an improved data processing based system for implementing an automated trading market for one or more securities.

Claims 27, 29 and 33-34 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Minton and Kalmus as applied to claims 26 and 32 above, and further in view of Gutterman et al (hereafter Gutterman: US Pat. 5,297,031)

Re. Claims 27 and 29, neither Minton nor Kalmus discloses wherein the automatic trade condition generates selling and purchase order prices increased or decreased by a fixed amount from the previously generated orders. However, Gutterman discloses this step [C10 L14-L60; C4 L21 to C5 20] to establish a spread position and take a profit. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Minton and Kalmus, and include selling and purchase order prices increased or decreased by a fixed amount from the previously generated orders, as disclosed by Gutterman, to allow customer to place order to establish or liquidate positions as the market moves up or down.

Re. Claims 33-34, claims are rejected with same rationale as claims 27 and 29.

Response to Arguments

2. Applicant's arguments filed May 23, 2005 have been fully considered but they are not persuasive.

In Response to Applicant argument, see Applicant Remarks (5/23/2005), page 7 3rd-5th paragraphs, "Nothing in this abstract teaches or discloses the above ... among other things "computer system, without an intervention by user ...".

Examiner's answer – see office action (11/16/2004) page 4 lines 2-6 states this limitation is disclosed by primary reference "Minton - US 6,014,643".

(d) the computer system, without an intervention by the user, generating and placing a purchase order and a selling order for trade according to the automatic trade condition immediately after the initial trade order has been contracted (it is known that the orders are executed after the orders are entered and immediately after accepted by second trader) [Figure 12; C3 L1-L16; C8 L8-L21; C14 L46 to C15 L25]. Kalmus teaches automated trading (Abstract lines 1-5; Col. 1 lines 41-46) and conditional (col. 6 lines 25-43 and lines 52-55 – see market maker criteria change).

In Response to Applicant argument (page 7 of 11 Remark section, communication dated May 23, 2005) that Kalmus teach or suggests about the following limitations:

(e) immediately after one of the selling order and the purchase order is contracted, the computer system, generating and placing another purchase order and

another selling order for trade according to the automatic trade condition (see Kalmus Figure 2 flow chart is a detail execution of automatic security trading, specially see loops for items # 51, 53, 54, and 53, 55, 67,..., 86, 88 (repeating loops to execute next order); col. 1 lines 41-43; col. 1 lines 57-64; col. 2 lines 29-30 – The order is qualified for execution by comparing its specific content fields).

(f) the computer system repeating the process (see col. 6 lines 14-25 – Program flow then returns to start node 50 for retrieval of next order ...). Further, in addition to disclosure of Minton, disclosure of Kalmus discloses wherein the selling order in each of the processes is higher than the contracted price in each of the processes, and the purchase order price in each of the processes is lower than the contracted price in each of the processes (col. 6 lines 25-47). Further more, "Buy high Sell low" and there have to be matching selling order and buying order to trade are well known phrases to a person having ordinary skill in the art of security trading.

In response to applicant's argument that claim 32 is substantially the same a claim 25 ..., it should be pointed out that every order is a new order when the client (trader) enters in the system (see Kalmus col. 5 lines 50-59 – next-recorded order means new order). In order for a system (traders on the floor of exchange) execute a trade, there have to be a sell order and a buy order to match and trade. Further, It is obvious to a person having ordinary skill in the art that the trading systems (traders on the floor of exchange) are not in business to trade one trade (order), they have to take a new orders, find a match and trade the security.

In response to applicant's argument that "computer system, without an intervention by the user, generating ...", and "substantially the same...", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Conclusion

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harish T. Dass whose telephone number is 571-272-6793. The examiner can normally be reached on 8:00 AM to 4:50 PM.

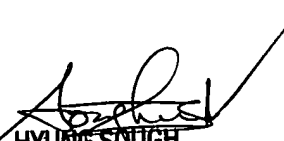
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 571-272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Harish T Dass
Examiner
Art Unit 3628

HTD

10/17/05


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